In the Matter of GENERAL ELECTRIC COMPANY *and* THE G. E. INDUSTRIAL UNION OF THE BRIDGEPORT WORKS, INCORPORATED

Case No. R-1462.—Decided October 10, 1939

Electrical Products Manufacturing Industry—Investigation of Representatives: petition for, dismissed, where no substantial question concerning the representation of employees had arisen: existing written contract with employer entered into upon basis of consent election result, recognized intervenor as exclusive bargaining representative of employees in unit agreed to be appropriate; evidence indicated petitioner had fewer adherents at time of hearing than at time of participation in consent election.

Mr. Alan F. Perl, *Mr. Daniel F. Baker*, and *Mr. Millard L. Midonick*, for the Board.

Mr. W. R. Burrows and *Mr. George H. Pfeif*, of Schenectady, N. Y., for the Company.

Mr. Sidney A. Johnson, of Bridgeport, Conn., for the Industrial.

Mr. Julius Emspak and *Mr. James J. Matles*, of New York City, for the United.

Mr. Eugene R. Thorrens, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

On January 17, 1939, The G. E. Industrial Union of The Bridgeport Works, Incorporated, herein called the Industrial, filed with the Regional Director for the Second Region (New York City), a petition alleging that a question affecting commerce had arisen concerning the representation of employees of the General Electric Company, Bridgeport, Connecticut, herein called the Company,[1] and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On April 26, 1939, the National Labor Relations Board, herein called the Board, acting pursuant to Section

[1] At the hearing the Trial Examiner granted the Board's motion to amend the caption of the petition to omit the word "The" from the corporate name of the Company.

9 (c) of the Act and Article III, Section 3, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On July 13, 1939, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon the Industrial, and upon the United Electrical Radio and Machine Workers of America, Local 203, herein called Local 203, a labor organization named in the petition as claiming to represent employees of the Company in the unit alleged in the petition to be appropriate. Pursuant to the notice, a hearing was held on August 14, 15, and 16, 1939, at New York City, before Horace A. Ruckel, the Trial Examiner duly designated by the Board.[2] At the opening of the hearing a motion by Local 203 to intervene was granted by the Trial Examiner, without objection. The Board and the Industrial were represented by counsel, and the Company and Local 203 appeared by their representatives. All participated in the hearing. Full opportunity to be heard, to examine, and cross-examine witnesses and to introduce evidence bearing on the issues was afforded all parties. After the Industrial had rested its case, and again at the close of all the evidence, Local 203 moved to dismiss the petition on the ground that the Industrial had failed to establish the existence of a question concerning representation. The Trial Examiner made no ruling upon the motion on either occasion. For the reasons hereinafter appearing, we shall grant the motion. During the course of the hearing the Trial Examiner made several rulings on other motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

Local 203 requested, but thereafter waived, oral argument before the Board at Washington, D. C. None of the other parties availed itself of the opportunity to request oral argument. Pursuant to leave granted to all parties, the Industrial and Local 203 submitted briefs which the Board has considered.

[2] On April 26, 1939, the Board ordered the present petition consolidated, for the purposes of hearing, with Cases Nos. R–285, R–286, R–1464, and II–R–1295, which relate to other General Electric plants. The Regional Director, accordingly, noticed the five cases for hearing together on August 14, 1939. At the commencement of the hearing, the parties interested in Cases Nos. R–285, R–286, and R–1464, moved that those cases be severed from the other cases and remanded to the Eleventh Region in which they originated; on September 19, 1939, the Board granted the motion for severance and ordered the cases remanded as requested. During the hearing on August 14, 1939, all parties interested in Case No. II–R–1295, consented to the holding of an election to determine representatives for the purposes of collective bargaining in that case; and on September 19, 1939, the Board ordered that case severed from the case arising upon the petition herein considered.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

General Electric Company, a New York corporation, is engaged in the manufacture of a large variety of electrical devices and equipment. The Company directly, and exclusive of its subsidiaries, owns and operates 25 manufacturing plants in 10 States, operates 20 service shops in 15 States, and operates 28 warehouses in 23 States. The Company's operations are correlated at its general office in Schenectady, New York.

The present proceeding is concerned only with the employees of the Company at its Bridgeport Works, located at Bridgeport, Connecticut, where the Company manufactures wiring devices, code and fixture wire, rubber-covered wire and cable, sun lamps, electric fans, flexible and conduit outlet boxes, home appliances, home-laundry equipment, and radio receivers. During 1938 the Company used, at its Bridgeport Works, raw materials and partially fabricated materials amounting in value to $9,393,752, more than 50 per cent of which it obtained from outside the State of Connecticut. During the same period the Company's sales of finished products manufactured at the Bridgeport Works totaled approximately $19,000,000 in value, and more than 50 per cent thereof was sold and shipped to points outside the State of Connecticut. The Company conceded that it is engaged in interstate commerce at its Bridgeport Works, and subject to the Board's jurisdiction.

II. THE ORGANIZATIONS INVOLVED

The G. E. Industrial Union of The Bridgeport Works, Incorporated, is an unaffiliated labor organization, incorporated under the laws of the State of Connecticut. It admits to membership all production and maintenance employees of the Company at its Bridgeport Works, excluding supervisory, clerical, and technical employees.

United Electrical Radio and Machine Workers of America, Local 203, is a labor organization, chartered by the United Electrical Radio and Machine Workers of America, hereinafter called the United, which is affiliated with the Congress of Industrial Organizations. Local 203 admits to membership all production and maintenance employees of the Company at its Bridgeport Works, excluding supervisory, clerical, and technical employees.

III. THE QUESTION CONCERNING REPRESENTATION

Local 203 was chartered on April 1, 1936. The record does not disclose its organizational history. In March 1937, the United,

which had chartered Local 203, entered into bargaining negotiations with the Company. These resulted in a contract entered into on April 1, 1938, between the Company and United, which provided:

> The Company agrees to recognize the Union as the sole collective bargaining agency for those plants where the Union through a National Labor Relations Board election or certification or other appropriate means satisfactory to both parties has been designated or recognized as the sole collective bargaining agency. The procedure of such collective bargaining shall be by plants or works except where the issue involves several plants (Article 1).

The contract also incorporated the existing policy of the Company concerning wages, hours, and working conditions, set up grievance procedure, and provided a plan for future consideration of modifications of the contract.

Several months after the beginning of negotiations between the Company and United, the Industrial was organized among the Company's employees, and in June 1937, a consent election was conducted by the Regional Director in which the employees were afforded an opportunity to designate by secret ballot the Industrial or Local 203 as their bargaining agent. Approximately 93 per cent of the eligible employees participated in the election; Local 203 received 2,790 votes, and the Industrial 1,999. The Company has at all times since the election recognized Local 203 as the exclusive bargaining representative of its employees at the Bridgeport Works. United, however, continued to handle negotiations for a contract which, as appears above, also related to other plants of the Company.[3]

By the operation of its terms, the contract entered into between the Company and United became effective with respect to the Bridgeport Works upon its execution on April 1, 1938, since theretofore, by an "appropriate means satisfactory to both parties," Local 203 had been "designated" and "recognized as the sole collective bargaining agent."[4] The contract provides that it shall be in force for 1 year, and thereafter from year to year unless either party gives the other party 90 days' advance written notice of cancelation. Neither party has given notice of termination. On the contrary, at the time of the hearing, negotiations, initiated by United, for modifications of the contract, were proceeding.

A month after the execution of the contract, the Industrial filed a petition for certification and investigation of representatives pur-

[3] Apparently, no attempt was made to obtain a separate contract with respect to the Bridgeport Works.

[4] It is apparent, and we find, that the parties to the contract intended that locals chartered by United should be comprehended by the references in the contract to United.

suant to Section 9 (c) of the Act. The Board, however, dismissed the petition on May 23, 1938, without ordering the holding of a hearing. On January 17, 1939, the Industrial filed the petition upon which the hearing was held on August 14, 15, and 16.

At the hearing, the Company produced a pay-roll list, as of August 2, 1939, containing the names of 4,064 employees in the unit which the parties agreed to be appropriate. The financial secretary of the Industrial identified 1,018 membership application or authorization cards signed by Bridgeport Works employees. The Industrial and United stipulated with reference to such cards as follows: 517 cards were dated in 1937, 92 were dated in 1938, and almost all of these 609 cards bore dates prior to May 2, 1938.[5] With respect to the other 409 cards (as to which no dates were stated), 109 had been duplicated by cards secured by United from Bridgeport Works employees after June 27, 1939, and 300 cards bore names which were not found on the pay-roll list because signers had been laid off or were not employed in the appropriate unit.

Andrew Vassie, president of the Industrial, testified at the hearing that he had talked to "several" Bridgeport employees who stated that they had signed cards for both organizations or belonged to neither, and that they had said that they wished the Industrial to represent them for the purposes of collective bargaining. He also testified that he had heard "more or less from hearsay" that "quite a few" of such employees[6] had made similar statements. According to Vassie the Industrial, about a year before the hearing, "solicited by postal cards" sent to employees, apparently in order to determine how many would vote for the Industrial. He testified that "some" had answered, but gave no definite number.

As stated above, Local 203 moved to dismiss the petition on the ground that the Industrial had failed to establish the existence of a question concerning representation. Local 203 offered no proof of its own membership but stated that in the event the motion was denied by the Board, it was prepared to introduce evidence of its designation by a majority of the employees as agent for collective bargaining.

We agree with the contention of Local 203 that the evidence of employee affiliation with or preference for the Industrial does not establish the existence of a question concerning representation of the Company's Bridgeport employees which would warrant our holding an election as requested by the Industrial. In 1937 Local 203 was duly designated the exclusive bargaining agent for the Bridgeport

[5] The dates appearing on the Industrial's cards refer not to the time of signing by the employees, but to the date of approval of membership applications or issuance of membership cards by the executive board of the Industrial.

[6] Vassie refused to state how many employees he meant by "quite a few."

employees by a clear majority in the consent election in which almost all persons eligible to vote participated, and Local 203 has been recognized by the Company as such representative since the election. Moreover, the Company reaffirmed such recognition of Local 203 in a written contract, which at the time of the hearing, was still in force, and, indeed, the subject of negotiations for betterments proposed by United. The contract contains no closed-shop provisions, nor are there any other factors in the situation, which, if present might explain the inability of another labor organization to obtain members or authorizations. Nevertheless, the record indicates the Industrial sustained a considerable loss in strength among the employees since the consent election held in 1937. In the election the Industrial received approximately 40 per cent of the votes cast, whereas the Industrial's cards, as of August 1939, totaled no more than 15 per cent of the employees in the unit agreed upon by the United and the Industrial as appropriate. Furthermore, so far as there is any evidence as to the dates of the Industrial's cards, most of them are dated 1937, and almost all antedate May 2, 1938. Finally, in view of its vague and indefinite character, we are unable to attach any weight to the oral testimony introduced by the Industrial as to the preference of employees.

Accordingly, we find that no question affecting commerce has arisen concerning the representation of the Company's employees at its Bridgeport Works.

Upon the basis of the above findings of fact and upon the entire record in the case the Board makes the following:

Conclusion of Law

No question affecting commerce has arisen concerning the representation of employees of the General Electric Company, Bridgeport, Connecticut, within the meaning of Section 9 (c) of the National Labor Relations Act.

ORDER

Upon the basis of the foregoing findings of fact and conclusion of law, the National Labor Relations Board, acting pursuant to Section 9 (c) of the National Labor Relations Act and Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series 2, hereby dismisses the petition for investigation and certification filed by The G. E. Industrial Union of The Bridgeport Works, Incorporated.